

## **REMARKS**

Claims 1-17 were originally pending. Claims 1-15 have been finally rejected. Claims 16-17 have been allowed. Claims 3, 4, and 12 have been cancelled, claim 8 has been amended, and new claim 18 has been added. Claims 1-2, 5-11, and 13-18 are now pending. Favorable reconsideration and allowance of this application is respectfully requested in light of the claim amendments and the following remarks.

### **I. Telephone Interview**

Applicant appreciates the Examiner's time and courtesy in granting the interview After Final for this application.

During the interview, it was agreed that the specification reasonably provides enablement for "a non-polymeric oxazoline surfactant" as presently recited in independent claim 1 and new dependent claim 18, and that an updated prior art search will be performed by the Examiner prior to allowance of claim 1.

It was further agreed that independent claim 9 will be independently examined as amended in the Amendment filed December 30, 2003, and in light of the remarks articulated in the December 30 amendment pertaining to claim 9 in view of the cited prior art .

### **II. Claim Objections**

Claims 3 and 11 are objected under 37 SCF 1.75 as being a substantial duplicate of allowed claims 16 and 17.

Claim 3 has been cancelled in response to the Objection.

As to claim 11, Applicant notes that claim 11 depends from claim 9, which is limited to a primary electrochemical cell. Independent claim 17, while indeed presenting similarities with claim 11, is not limited to a primary electrochemical cell. Accordingly, Applicant asserts that claim 11 is not a substantial duplicate of claim 17, and withdrawal of the objection to claim 11 is respectfully requested.

### **III. Specification**

Paragraphs 22 and 24-26, including Table 1, have been amended to identify Alkaterge trademarks with Capital letters, a "TM" designation, and the generic terminology. Withdrawal of the objection to the Specification is therefore respectfully requested.

### **IV. Rejections of Claims 1-15 under 35 USC 112**

Claims 1-15 are rejected under 35 USC 112, first paragraph, because 1) the specification does not reasonably provide enablement for an explicitly non-polymeric oxazoline surfactant, and 2) the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention.

Applicant notes as a preliminary matter that only independent claim 1, and hence corresponding dependent claims 2 and 5-8, recite the surfactant as being a non-polymeric oxazoline surfactant. Independent claim 9, and corresponding dependent claims 10-11 and 13-15, are not so limited.

During the above-mentioned telephone interview, Applicant and Examiner agreed that the specification, and in particular paragraphs 7 and 22, along with the remaining description as a whole, reasonably enables the claimed non-polymeric surfactant and further conveys to one having ordinary skill in the art that Applicants had possession of the claimed non-polymeric surfactant. Furthermore, the patents incorporated by reference in the present application would not lead one skilled in the art to conclude otherwise.

Accordingly, the Specification reasonably provides enablement for “a non-polymeric oxazoline surfactant” as recited in independent claim 1. Furthermore, the Specification conveys to one skilled in the art that Applicant was in possession of the invention recited in claims 1-2 and 5-8 at the time the application was filed. Withdrawal of the rejection of claims 1-15 under 35 USC 112 is therefore respectfully requested.

#### **V. Rejection of Claims 4 and 12 under 35 USC 112**

Claims 4 and 12 are rejected under 35 USC 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claims 4 and 12 are said to use a trademark or tradename as a limitation to identify or describe a particular material or product, thereby rendering the claim indefinite.

Applicant has cancelled claims 4 and 12 to overcome the rejection. Applicant further notes that the subject matter previously recited in cancelled claims 4 and 12 are still covered under independent claims 1 and 9, from which claims 4 and 12 originally depended.

Withdrawal of the rejection of claims 4 and 12 is respectfully requested.

#### **VI. Claims 9-11 and 13-15**

As noted above, in the December 30, 2003 Amendment, Applicant had amended independent claim 9 to recite a primary electrochemical cell. Applicant further noted that Kawakami clearly and explicitly relates only to rechargeable (i.e., secondary) electrochemical cells. Furthermore, because no disclosure in Kawakami relates to providing an oxazoline compound in a primary alkaline electrochemical cell as recited in claim 9, no incentive is provided to combine Kawakami with Larsen to yield a primary alkaline electrochemical cell containing an oxazoline in the anode mix. The December 30 Amendment at Pages 5-6 further describes how one skilled in the art would not be motivated to combine Kawakami with Larsen to arrive at the presently claimed invention.

Allowance of claims 9-11 and 13-15 is therefore respectfully requested.

## **VII. Allowable Subject Matter**

Applicant notes with appreciation that claims 16 and 17 are allowed.

Applicant further notes with appreciation that claims 3 and 11 are allowable over the cited prior art. Claim 3 has been cancelled. Because corresponding independent claim 9 has been shown to be allowable over the cited prior art, and adequately supported by the specification, Applicant cites sufficient basis for the formal allowance of dependent claim 11.

Formal allowance of claims 11, 16, and 17 is therefore respectfully requested.

## **VIII. New Claim 18**

Applicant has added new claim 18 which depends from independent claim 9 and recites that the oxazoline of claim 9 is non-polymeric. This limitation is supported by the specification, and is not taught or suggested in the cited prior art. Allowance of claim 18 is therefore respectfully requested.

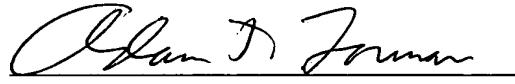
## **IX. Conclusion**

Applicant therefore respectfully asserts that the amendments to the claims and specification raise no new issues, and overcome all rejections and objections cited by the Examiner to place the application in condition for allowance. Accordingly, entry of this Amendment into the record is respectfully requested, and a Notice of Allowance is earnestly solicited.

Applicant hereby authorizes the Commissioner to charge the \$420 fee for a two-month extension of time, along with any additional fees that are deemed due arising from this or any other communication, to deposit account No. 17-0055. The Examiner is invited to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application.

Respectfully submitted,

ERNEST NDZEBET



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